FEBRUARY 17, 1994

The third meeting of the Faculty Senate for 1993-94, was convened in 25 Law Center, Minneapolis campus, on Thursday, February 17, 1994, at 3:15 p.m. (immediately following the University Senate meeting). Coordinate campuses were linked by telephone. Checking or signing the roll as present were 131 voting faculty members. President Nils Hasselmo, presided.

I. MINUTES FOR NOVEMBER 18, AND DECEMBER 2, 1993
Action

Correction to the November 18 minutes (page 5, sixth bullet):

III. University of Minnesota Strategic Planning

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- It appears the document does not give the same rewards in performance measurements to applied and interdisciplinary work as to basic research.

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APPROVED

II. FACULTY CONSULTATIVE COMMITTEE
FACULTY AFFAIRS COMMITTEE
Conflict of Interest Policy
Discussion and Action

MOTION:

To approve the proposed Conflict of Interest Policy:

CONFLICT OF INTEREST POLICY

NOTE: This policy ultimately is intended to address both Conflict of Interest and Conflict of Commitment. At this point, we are seeking to move forward only those portions dealing with Conflict of Interest. The Conflict of Commitment sections will be added later, after consultation, review, and approval by the appropriate groups, and the policy will be retitled "Conflict of Interest and Conflict of Commitment." Until these sections are approved, the existing "Regents' Policy on Consulting and Outside Affiliations: Outside Consulting, Service Activities and Other Outside Work" will remain in effect. When the combined policy is approved, it will be published in a booklet that will also include a section on responsible conduct, the Academic Misconduct Policy, and a new policy on ownership of, access to, and retention of research data.

1. INTRODUCTION

The University of Minnesota actively encourages and participates in interaction with both the public and private sectors as an important component of its research, education, and public service activities. The University encourages the recruitment, retention, and recognition of individuals with creative abilities who can contribute to technology transfer and interactions with BUSINESS[1] and public entities consistent with their primary commitment to the University. ACADEMIC EMPLOYEES involved in such interactions may receive

[1] Definitions of terms appearing in small capital letters are listed in Appendix A.

personal financial compensation in accordance with the principles and guidelines provided in this policy. Research activities supported by grants, contracts, or GIFTs from public and private entities as well as individuals provide a valuable source of funds, equipment, and topics for University research. Professional interactions, including consulting arrangements, between ACADEMIC EMPLOYEEs and public entities and private BUSINESSes advance the University's ability to provide a high-quality research and educational experience for students and enhance employment opportunities for students. University licensing of technology, ACADEMIC EMPLOYEE's consulting, assisting in new BUSINESS start-ups, and other forms of technology transfer to both public and private entities are critical to meeting society's needs. The University is committed to fostering the welfare of the State of Minnesota through interaction by the University with other public entities and the private sector.

At the same time, the University and its employees are committed to conducting themselves and University activities in accordance with the highest standards of integrity and ethics. This includes the identification of the potential for conflicts of interest and the assurance that they do not improperly affect University activities. It is the purpose of this policy to set forth the principles for identifying such potential for conflicts and the procedures for reviewing and addressing the potential for conflicts that occur.

2. CONFLICT OF INTEREST AND EXTERNAL RELATIONSHIPS

A conflict of interest occurs when an ACADEMIC EMPLOYEE compromises his/her professional judgment in carrying out University teaching, research, outreach, or public service activities because of an external relationship that directly or indirectly affects the FINANCIAL INTEREST of the ACADEMIC EMPLOYEE, any FAMILY[2] member, or any ASSOCIATED ENTITY.

The potential for conflicts arises because of the nature and scope of activities engaged in by the University and its employees. The University assumes that potential for conflicts will occur regularly in the normal conduct of activities. However, it is essential that the significant potential for conflicts be disclosed and reviewed by the University. After disclosure the University can then make an informed judgment about a particular case and require appropriate oversight, limitations, or prohibitions on the activity in accordance with this policy. ACADEMIC EMPLOYEES may not engage in activities in which an actual conflict of interest occurs.

ACADEMIC EMPLOYEES are encouraged to PARTICIPATE in technology transfer activities and interactions with other public entities and with BUSINESS. Such activities, referred to in this document as **external relationships**, may have the potential for conflicts of interest. However, no wrongdoing is implied by the existence of external relationships.

SIGNIFICANT COMBINATIONS OF ACTIVITIES AND EXTERNAL RELATIONSHIPS

The potential for a conflict interest arises when certain behaviors on the part of the ACADEMIC EMPLOYEE occur and are coupled to the existence of certain external relationships. Some combinations (Category I below) are assumed to not represent a conflict of interest. Other combinations represent sufficient potential for conflict of interest (Category II below) that they require review and prior approval by the University before the ACADEMIC EMPLOYEE can engage in the activity. Category III below addresses an activity combined with an external relationship that is presumed to be a conflict of interest and is therefore not allowed.

The following is a representative, though not inclusive, list of activities and external relationships covered by this policy. The categories are general guidelines, and application of appropriate review and oversight will always be in accordance with maintaining the full integrity or reputation of the University and its employees within the context of academic freedom.

Any combination of activity and external relationship not specifically represented in Categories I-III that an ACADEMIC EMPLOYEE reasonably believes constitutes a potential conflict of interest must be reported in

[2] See definition of FAMILY (IMMEDIATE FAMILY and EXTENDED FAMILY) in Appendix A.

writing to the ACADEMIC EMPLOYEE's department head.[3] The department head will determine whether the relationship represents an activity requiring further review.

CATEGORY I - Allowable combinations of activities and external relationships: The following are not considered conflicts of interest and do not require disclosure. They are allowable, if they are consistent with other policies of the University including the Consulting and Patent and Technology Transfer policies:[4]

a) An ACADEMIC EMPLOYEE receiving royalties and honoraria for published scholarly works, occasional lectures, and other writings or creative works.[5, 6]

b) An ACADEMIC EMPLOYEE receiving honoraria for serving as a special reviewer or serving on review panels for academic, governmental, or not-for-profit entities.

c) An ACADEMIC EMPLOYEE receiving royalties under the University's or another academic institution's royalty-sharing policies but the employee does not have any other relationship with the royalty-granting entity as specified in Category II.

d) An ACADEMIC EMPLOYEE participating in a Private Practice Plan pursuant to policies adopted by the Board of Regents.

CATEGORY II - Combinations of activities and external relationships that have the potential for conflict of interest: The following combinations range from those that are considered to have minimal to moderate potential for conflict of interest (Section A) to those that have a moderate to high potential for conflict of interest (Section B). The activities in Section A are ordinarily allowable following disclosure and, where necessary, the implementation of oversight or other management procedures. The activities and external relationships listed in Section B require case-by-case review and only some of the specific relationships may be approved. Special oversight or management procedures are likely to be required (see Section 3 for disclosure and approval procedures).

SECTION A - Combinations of activities and external relationships in which there is a minimal to moderate potential for conflict of interest.

RESEARCH ACTIVITIES

a) An ACADEMIC EMPLOYEE participating in research on a technology, process, or product developed in whole or in part by that ACADEMIC EMPLOYEE in which the employee, a member of his/her IMMEDIATE FAMILY, or an ASSOCIATED ENTITY is entitled to receive royalties from an existing agreement with a BUSINESS under the University's or another academic institution's royalty-sharing policies, but has no other FINANCIAL INTERESTs in the project.

b) An ACADEMIC EMPLOYEE assigning students, postdoctoral fellows, or other trainees to research projects in which the ACADEMIC EMPLOYEE, a member of his/her IMMEDIATE FAMILY, or an

[3] Department head is used as a generic term for the immediate administrator, which is normally the department head, department chair, or director.

[4] This Conflict of Interest Policy does not supersede the "Patent and Technology Transfer Policy" or any future policies on intellectual property.

[5] Products produced for a specific University job assignment are excluded and remain the property of the University.

[6] Consistent with the Academic Personnel Policy on "Use of Educational Materials, the Sale of which Benefits Personally Faculty or Staff Members," the approval of the appropriate department head or dean is required when an ACADEMIC EMPLOYEE selects materials for assignment to University students the sale of which will provide personal income to the employee.

ASSOCIATED ENTITY is entitled to receive royalties from an existing agreement with a BUSINESS under the University's or another academic institution's royalty-sharing policies, but has no other FINANCIAL INTERESTs in the project.

INSTRUCTIONAL ACTIVITIES

c) An ACADEMIC EMPLOYEE assigning students or other trainees to instructional projects, for example, design projects, in which the ACADEMIC EMPLOYEE, a member of his/her IMMEDIATE FAMILY, or an ASSOCIATED ENTITY has A FINANCIAL INTEREST.

SECTION B - Combinations of activities and external relationships in which there is a moderate to high potential for conflict of interest.

RESEARCH ACTIVITIES

a) An ACADEMIC EMPLOYEE participating in clinical trials or evaluation or development of a technology, process, or product owned or controlled by a BUSINESS in which the employee, a member of his/her FAMILY, or an ASSOCIATED ENTITY has a FINANCIAL INTEREST.

b) An ACADEMIC EMPLOYEE assigning students, postdoctoral fellows, or other trainees to projects supported by a BUSINESS (through SPONSORED RESEARCH or a GIFT) in which the ACADEMIC EMPLOYEE, a member of his/her FAMILY, or an ASSOCIATED ENTITY has a FINANCIAL INTEREST, other than royalty income or the entitlement to future royalty income under university royalty-sharing policies.

c) An ACADEMIC EMPLOYEE receiving University-supervised SPONSORED RESEARCH support or GIFTS (whether in dollars or in kind) for research from a BUSINESS in which he/she, a member of his/her FAMILY, or an ASSOCIATED ENTITY has a FINANCIAL INTEREST, other than royalty income or the entitlement to future royalty income under university royalty-sharing policies.

BOARD MEMBERSHIPS

d) An ACADEMIC EMPLOYEE receiving research support (SPONSORED RESEARCH or a GIFT) from a BUSINESS in which the employee or a member of his/her FAMILY serves on the board of directors or advisory board.

EXTERNAL ACTIVITIES

e) An ACADEMIC EMPLOYEE holding an EXECUTIVE POSITION in a BUSINESS engaged in commercial or research activities directly related to his/her University responsibilities.

ADMINISTRATIVE RESPONSIBILITIES

h) An ACADEMIC EMPLOYEE taking administrative action on behalf of the University with respect to the University or any University-affiliated organization that is beneficial to a BUSINESS in which he/she, a member of his/her FAMILY, or an ASSOCIATED ENTITY has a FINANCIAL INTEREST.

i) An ACADEMIC EMPLOYEE taking administrative action on behalf of the University with respect to any supported research activity (SPONSORED RESEARCH or a GIFT) in which the ACADEMIC EMPLOYEE, a member of his/her FAMILY, or an ASSOCIATED ENTITY has a FINANCIAL INTEREST in the sponsor or donor.

PROFESSIONAL REFERRALS

g) With the exclusion of consulting activities that conform to the consulting policy, an ACADEMIC EMPLOYEE while acting in the context of his/her University duties making professional referrals to a

BUSINESS in which he/she, a member of his/her FAMILY, or an ASSOCIATED ENTITY has a FINANCIAL INTEREST of which the ACADEMIC EMPLOYEE is aware or reasonably should be aware.[7]

CATEGORY III - A combination of an activity and an external relationship that is prohibited: The following activity creates a conflict of interest and is not allowed for ACADEMIC EMPLOYEEs:

PURCHASING GOODS OR SERVICES

a) ACADEMIC EMPLOYEES involved with or who may influence purchasing decisions or contracting on behalf of the University must comply with Minn. Stat. § 15.43, Acceptance of Advantage by State Employee, which is fully set forth in Appendix D.

3. IMPLEMENTATION - CONFLICT OF INTEREST

Successful implementation of this policy assumes a shared responsibility by all ACADEMIC EMPLOYEES and the administration of the University. ACADEMIC EMPLOYEES are expected to comply with all the disclosure requirements described below. Once proposed activities have been administratively reviewed with a plan of action completed and approved, University administration has the responsibility to vigorously defend the activity so long as the ACADEMIC EMPLOYEE complies with the plan of action and the disclosure requirements.

A. DISCLOSURE REQUIREMENTS

Requirements for disclosure of FINANCIAL INTERESTS: Any time an ACADEMIC EMPLOYEE plans to initiate an activity that may be classified under Category II of this policy, the ACADEMIC EMPLOYEE must obtain approval of the proposed activity before commencing the activity. For the purposes of this policy, disclosure is required when the interest in a BUSINESS by an ACADEMIC EMPLOYEE or by an IMMEDIATE FAMILY member exceeds $5,000 in annual income of all types, equity or ownership interest valued at 1 percent or more, or commitment for any future royalties. Disclosure is also required when an EXTENDED FAMILY member holds an EXECUTIVE POSITION in a BUSINESS, or holds equity or ownership interest valued at ten percent or more in a BUSINESS.

Disclosure at the time of submitting a proposal for SPONSORED RESEARCH or receipt of a GIFT: All ACADEMIC EMPLOYEEs must disclose relevant FINANCIAL INTERESTS to their department heads at the time of their application for research support (from internal or external funding sources) or technology transfer, or upon receipt of a GIFT if the proposed falls under the provisions of this policy. Funding for the project will not be accessible to the ACADEMIC EMPLOYEE until the disclosure of FINANCIAL INTEREST is reviewed and approval is given, and other appropriate measures have been implemented in accord with this policy.

Annual disclosure: All ACADEMIC EMPLOYEES are required annually to complete and submit to their department heads the Disclosure Form reporting all FINANCIAL INTERESTs related to research activities and consulting activities. Whenever substantial changes occur that the ACADEMIC EMPLOYEE believes may alter the FINANCIAL INTERESTS previously disclosed, an updated form must be submitted within thirty (30) days.

Disclosure when involved with review or advisory activities: All ACADEMIC EMPLOYEES must temporarily excuse themselves from any University committee or review process that is considering an activity in which they have a FINANCIAL INTEREST.

In addition, ACADEMIC EMPLOYEES must also disclose to committee chairs or the appropriate administrator any interest (BUSINESS, FINANCIAL, OR FAMILY) that might cause the employee to compromise his/her judgment while serving as a committee member or making administrative decisions. An example is serving in an EXECUTIVE POSITION for any organization that does business with the University or sets policies or rules that affect the University's activities.

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[7] Only in special situations should full-time ACADEMIC EMPLOYEES be permitted to engage in this type of activity, for example, when the function is not generally available from other sources and the employee fully discloses his/her relevant FINANCIAL INTEREST to prospective clients.

Disclosure when involved with technology transfer: When ACADEMIC EMPLOYEES are involved with transferring technology through patents or licensing to a BUSINESS in which the employee has a FINANCIAL INTEREST, the employee must also disclose the FINANCIAL INTEREST to the Associate Vice President, Office of Research and Technology Transfer.

Disclosure to external entities: ACADEMIC EMPLOYEEs must disclose relevant FINANCIAL INTERESTs to sponsors of research and in reporting by either written or oral communication research results.[8] Disclosure must also be made by any employee who makes an appearance, either in person or by way of a written communication, before any public body, commission, group, or individual, to present facts or to give an opinion respecting any issue or matter up for consideration, discussion, or action.[9]

Additional information: When considering approval of Category II activities or monitoring Category III activities, the department head, dean, or appropriate academic vice president/vice chancellor may require the ACADEMIC EMPLOYEE to submit additional clarifying information pertinent to the activity under review. This supplemental information will be treated as non-public information to the extent allowed by law.

Waiving the requirement for disclosure of FINANCIAL INTEREST: In special situations, ACADEMIC EMPLOYEES may request a waiver of the requirement to file a financial disclosure to participate in a specific activity if they can document that they are not in a position to influence the accuracy of the outcome of the research or the timely and accurate dissemination of the results of the research. A request for a waiver must be submitted to the ACADEMIC EMPLOYEE's department head. The administrative review process should follow the procedure described below for Category II - Section A activities. If the request for the waiver is denied, then the ACADEMIC EMPLOYEE must either comply with the disclosure requirements or not participate in the proposed activity.

B. REVIEW OF APPLICATIONS FOR EXTERNAL SUPPORT OR RECEIPT OF GIFTS

Review process: The general purpose of reviews is to assist employees and the University in avoiding or controlling risks to integrity and reputation engendered by such relationships, while at the same time protecting and furthering the interests of employees, the University, and society in the activities supported by SPONSORED RESEARCH and GIFTs (see Appendix B,1,b for general guidelines for the review process).

Category II - Section A: The department head is the responsible administrator for this section. When a department head receives the disclosure form, he/she will consider the appropriateness of the activity and will determine a course of action that will be reported in writing to the dean to whom the department head reports. The dean will either approve the department head's action or submit the disclosure for review following the Category II - Section B procedure. In those instances when the dean does not concur, the activity may not proceed until approval is obtained by the Category II - Section B review procedure. Review and decisions on proposed activities for this section must be completed within twenty (20) working days after the department head receives the written disclosure.

Category II - Section B: The dean is the responsible administrator for this section. When a department head receives the disclosure form, he/she will consider the appropriateness of the activity and will recommend a course of action that will be submitted to the dean to whom the department head reports. The dean will refer the proposed activity to the appropriate Conflict Review Committee (described below) with or without his/her specific recommendation. The Conflict Review Committee will either endorse the dean's recommendation or suggest to the dean a course of action. The dean will then determine the course of action for the proposed activity and submit the decision to the academic vice president or vice chancellor to whom the dean reports. The vice president/vice chancellor will either concur or return the plan of action to the dean for revision. For those proposed activities that would benefit from an additional perspective, the vice president/vice chancellor will forward a request to the Vice President for Research to refer the

[8] When submitting a paper for publication, an ACADEMIC EMPLOYEE must disclose to the editor any FINANCIAL INTEREST that may be affected by publication. This provision also applies to release of information to news media.

[9] This is taken from the Regents' Policy on "Presenting Testimony - Identification of Affiliations." The intention is to replace that policy by including its basic provisions in the conflict of interest policy and also in the conflict of commitment policy.

activity to the Public-Private Partnership Committee (PPPC). The advice from the PPPC will be submitted to the dean, who will determine the course of action and submit the decision to the vice president or vice chancellor to whom the dean reports. The vice president/vice chancellor will either concur or return the plan of action to the dean for revision. Review and decisions on proposed activities for this section must be completed within thirty (30) working days after the department head receives the written disclosure except for those activities referred to the PPPC. The proposed activities that are reviewed by the PPPC must be completed within an additional thirty (30) working days.

Conflict Review Committees (CRCs): Each academic vice president or vice chancellor will determine whether the review committee(s) should be organized at the collegiate level or by area (multiple colleges) and, in consultation with appropriate deans, will be responsible for appointing review committee members (see Appendix B). ACADEMIC EMPLOYEEs will have the opportunity to meet with the CRC to discuss the situation and possible actions.

Appeal/reconsideration process: If an ACADEMIC EMPLOYEE believes the determined course of action is inappropriate, the employee may appeal or ask for the decision to be reconsidered by the dean. The dean will then refer the appeal to the Conflict Review Committee to have the activity reconsidered. Upon completion of the review, the dean will act on the recommendation.

Record retention: Each dean will maintain records of all financial disclosure statements filed and all actions taken by the institution, on an award-by-award basis, for at least three (3) years beyond the termination of the award or until resolution of any action by the University or governmental agencies involving the records. All records will be maintained in a manner to protect confidentiality.

C. REPORTING AND PREVIOUSLY APPROVED RELATIONSHIPS

Each dean annually will submit a written report to the appropriate academic vice president/vice chancellor summarizing all requests and actions regarding Category II external relationships. In addition, the dean must report on ongoing Category II relationships to ensure that management and oversight activities are being carried out as required. These reports will be forwarded by the vice president or vice chancellor to the Vice President for Research for transmission to the Public-Private Partnership Committee, which will review activities for consistency and make suggestions for modification of operating principles and procedures. On behalf of the committee, the Vice President for Research will communicate its recommendations in writing to the vice presidents and vice chancellors, who in turn will communicate in writing with their deans. The Vice President for Research also will consult with appropriate faculty governance committees regarding proposed changes in the operating principles and procedures.

4. COMPLIANCE

The University expects ACADEMIC EMPLOYEEs to comply fully and promptly with all the requirements of this policy. Breaches of this policy include, but are not limited to, failure to file, intentionally filing an incomplete, erroneous, or misleading disclosure form, or failing to provide additional information as required by the approving authority. A violation of this policy may be the basis for discipline of an ACADEMIC EMPLOYEE. If sanctions are necessary, they will be imposed in accordance with the Regulations Concerning Faculty Tenure and the Academic Professional and Administrative Staff Policies and Procedures. The potential sanctions may include, but are not limited to, the following:

* Letter of admonition;
* Ineligibility of the ACADEMIC EMPLOYEE for grant applications, Institutional Review Board (IRB) approval, or supervision of graduate students;
* Suspension;
* Nonrenewal of appointment;
* Dismissal.

5. OTHER APPLICABLE POLICIES AND LAWS

The statement of principles contained in this policy complements the provisions of other applicable policies, regulations, and laws. These include Regents' policies on "Patent and Technology Transfer"; "Consulting and Outside Affiliations: Outside Consulting, Service Activities and Other Outside Work"; and the "Faculty and Staff Grievance Procedure." Other relevant guidelines include the "Regulations Concerning Faculty Tenure"; Purchase of Services Policies and Procedures, and applicable state and federal law. This policy is intended to help implement and expand upon these other related requirements.

This policy supersedes all others with respect to matters covered herein.

APPENDIX A - OPERATING DEFINITIONS

a) ACADEMIC EMPLOYEE means any person possessing either a full-time (any employee holding an appointment of more than 66 percent time) or part-time academic or staff appointment at the University and includes all persons with the following class numbers: Academic Administrative 93xx; Faculty 94xx; Minnesota Extension Service 96xx; and Academic Professionals 97xx. Also included in this category are those individuals, whether salaried or not salaried, who on behalf of the University are responsible for writing and submitting grants.

b) An ASSOCIATED ENTITY of an ACADEMIC EMPLOYEE means any trust, organization, or enterprise over which the employee, alone or together with his/her FAMILY, exercises a controlling interest.

c) BUSINESS means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, joint stock company, receivership, business or real estate trust, or any other nongovernmental legal entity organized for profit, not-for-profit, or charitable purposes.

d) EXECUTIVE POSITION refers to any position that includes responsibilities for a significant segment of the operation or management of a BUSINESS.

e) EXTENDED FAMILY of an ACADEMIC EMPLOYEE includes children who do not qualify as dependents for tax purpose, parents, and siblings.

f) The FAMILY of an ACADEMIC EMPLOYEE includes both IMMEDIATE FAMILY and EXTENDED FAMILY.

g) A FINANCIAL INTEREST is an interest in a BUSINESS consisting of: (1) any stock, stock option, or similar ownership interest in such BUSINESS, but excluding any interest arising solely by reason of investment in such BUSINESS by a mutual, pension, or other institutional investment fund over which the ACADEMIC EMPLOYEE does not exercise control; or (2) receipt of, or the right or expectation to receive, any income from such BUSINESS whether in the form of a fee (e.g., consulting), salary, allowance, forbearance, forgiveness, interest in real or personal property, dividend, royalty derived from the licensing of technology or other processes or products, rent, capital gain, real or personal property, or any other form of compensation, or any combination thereof. For the purposes of this policy, disclosure is required when the interest in a BUSINESS by an ACADEMIC EMPLOYEE or by an IMMEDIATE FAMILY member exceeds $5,000 in annual income of all types, equity or ownership interest valued at 1 percent or more, or commitment for any future royalties. Disclosure is also required when an EXTENDED FAMILY member holds an EXECUTIVE POSITION in a BUSINESS, or holds equity or ownership interest valued at ten percent or more in a BUSINESS.

h) GIFT means an unrestricted donation of assets to the University or any portion of the University. The donor may specify the general purpose for which the gift may be used, but there may be no other terms and conditions concerning the use of such assets. Assets may be in the form of cash, securities, tangible personal property, partnership interests, or pledges for acceptable assets that are assigned to the University. For the purposes of this policy, disclosure is required when (a) a GIFT is from a BUSINESS in which an ACADEMIC EMPLOYEE has a FINANCIAL INTEREST or (b) the value of the GIFT exceeds $1,000 in a given year.

i) IMMEDIATE FAMILY includes the ACADEMIC EMPLOYEE's spouse or domestic partner, and children who qualify as dependents for tax purposes.

j) PARTICIPATE means to be part of the described activity in any capacity, including, but not limited to, serving as the principal investigator, co-investigator, research collaborator, or provider of direct services or patient care. The term is not intended to apply to individuals who provide primarily technical support or who are purely advisory, with no direct access to the data (e.g., control over its collection or analysis) or, in the case of research with human subjects, to the study participants, unless they are in a position to influence the study's results or have privileged information as to the outcome.

k) SPONSORED RESEARCH means research, training, and instructional projects involving funds, materials, or other compensation from outside sources under agreements that contain any of the following: The agreement binds the University or an affiliated institution to a line of scholarly or scientific inquiry specified to a substantial level of detail; a line-item budget is involved; financial reports are required; the award is subject to external audit; unexpended funds must be returned to the sponsor at the conclusion of the project; or the agreement provides for the disposition of either tangible or intangible properties that may result from the activity.

APPENDIX B - CONFLICT REVIEW COMMITTEES

1) CONFLICT REVIEW COMMITTEES

(a) FORMATION AND MEMBERSHIP

Academic vice presidents and vice chancellors will form one or more Conflict Review Committees (CRCs) for their areas to review the potential for conflicts of interest respecting SPONSORED RESEARCH, funding and GIFTS. Committees may be organized by area (multiple colleges) or for particular colleges where the number of such cases or their nature justify a separate committee. Three-quarters of the voting membership of each CRC will be faculty members from the area or college(s) to be served. The remaining one-quarter of the voting members will include faculty from outside the college(s) and representatives from outside the University. Some of the members should be individuals who have participated in approved external relationships. Each CRC will also include nonvoting staff representation from the Office of Research and Technology Transfer. The academic vice president/vice chancellor will decide on the composition of each CRC and select its members in consultation with the appropriate deans.

(b) GUIDELINES

The principal objective for the review committees and responsible administrators is to help guard ACADEMIC EMPLOYEES and the University from engaging in activities where the risk to integrity and reputation as a result of an external relationship outweighs the value of the activity to academic and societal goals. Relevant factors for the review committees and responsible administrators to consider are the size of the FINANCIAL INTEREST, when the relationship commenced, whether the conditions of the relationship have changed during the past year, the likelihood of actual conflict (will the results of the activity likely be affected by or affect the FINANCIAL INTEREST), mechanisms to ensure integrity (peer review, other independent research sites, and independent monitors or controls), the importance of the proposed activity, and the availability of alternatives to avoid the conflict or apparent conflict.

One possible recommendation as a result of the review is approval of the activity as proposed if it is concluded that the potential for conflict is so remote or inconsequential that there is minimal probability for biasing the objectivity of the activity. Other possible recommendations are to require periodic peer review of the activity (oversight) by individuals independent of the ACADEMIC EMPLOYEE, outside monitors for the activity, divestiture of the FINANCIAL INTEREST, modification of the plan of work, or assignment of different ACADEMIC EMPLOYEES without a FINANCIAL INTEREST to control the activity. To the extent possible and reasonable under the circumstances, and in light of the importance of the activity, the review committees and responsible administrators will work with ACADEMIC EMPLOYEES to develop means for the activity to take place while protecting the integrity and the reputation of the ACADEMIC EMPLOYEES and the University. In special circumstances upon receiving advice from the PPPC, the academic vice president/vice chancellor may approve the activity for a limited period of time due to the potentially great benefit from the activity even though there is a high potential for conflict of interest.

2) PUBLIC-PRIVATE PARTNERSHIP COMMITTEE

(a) FORMATION AND MEMBERSHIP

The Vice President for Research will form a Public-Private Partnership Committee (PPPC) to advise the University administration on complex ethical issues that cannot be resolved by direct application of existing policies. Although some members of this committee will be drawn from within the University to provide relevant information and guidance, the majority will represent a broad spectrum of constituencies outside the University.

(b) GUIDELINES

The PPPC will provide advice on how to handle proposed activities that require an additional perspective beside that provided by the CRC. The PPPC will also annually perform a retrospective review of all decisions involving Category II relationships and provide advice on how policies and procedures might be modified to maintain the integrity of the institution. The Vice President for Research will serve as the liaison between the PPPC and the other vice presidents/vice chancellors. The Vice President for Research also will confer with appropriate faculty governance committees regarding proposed changes in the operating principles and procedures.

APPENDIX C - EXISTING RELATIONSHIPS

This policy takes a broader view of the potential for conflict of interest and contains more stringent guidelines than the policy it replaces. As a result, it is expected that certain existing relationships of ACADEMIC EMPLOYEES will have to be modified. In order to implement the policy, ACADEMIC EMPLOYEES must disclose all existing external relationships to department heads for review as specified in Section 3. This provision also applies to all new ACADEMIC EMPLOYEES hired after this policy is adopted. The following section sets forth transitional rules for removing identified conflicts. They apply to activities department heads and deans have determined to be unallowable.

MECHANISMS FOR REMEDIATION

If a department head or dean decides an existing combination of an activity and external relationship is unallowable, the ACADEMIC EMPLOYEE can do any of the following to remove the potential for conflict of interest:

* **Divestiture of FINANCIAL INTERESTS in publicly traded BUSINESSES:** Within three months following the administrative decision, the ACADEMIC EMPLOYEE must divest at least 75 percent of relevant stock holdings; 100 percent of the stock must be divested by the end of the sixth month.

* **Divestiture of FINANCIAL INTERESTS in privately held BUSINESSES:** The ACADEMIC EMPLOYEE will be required to divest himself/herself of his/her interest at the earliest reasonable time in the judgment of the department head or dean. The University must be assured that the ACADEMIC EMPLOYEE will not be obligated to future activities or responsibilities for the BUSINESS.

* **Retaining FINANCIAL INTERESTS but withdrawing from University activity:** In lieu of divestment of a FINANCIAL INTEREST, an ACADEMIC EMPLOYEE may retain the interest and instead discontinue the University activity in question. In such circumstances the ACADEMIC EMPLOYEE may continue to participate in the research for a period not to exceed six months following notification that the combination of activities and external relationships is not approved. Under such circumstances, the implementation of appropriate monitoring procedures may be warranted during such period.

* **Resigning or taking a leave from an EXECUTIVE POSITION in BUSINESS related to an ACADEMIC EMPLOYEE's University activity:** A full-time ACADEMIC EMPLOYEE with an EXECUTIVE POSITION in a BUSINESS that is deemed unallowable must resign or take a leave of absence from the position within a period determined to be reasonable under the circumstances. In no case will this period exceed six months from the determination that the relationship is not acceptable. In making these arrangements, efforts will be made to minimize the disruption the change might create for the parties involved.

APPENDIX D - MINN. STAT. 15.43, ACCEPTANCE OF ADVANTAGE BY STATE EMPLOYEE

Subdivision 1. Financial interest of agents. No employee of the state or of the University of Minnesota in direct contact with suppliers or potential suppliers to the state or the university, or who may directly or indirectly influence a purchasing decision or contract by establishing specification, testing purchased products, evaluating contracted services, or otherwise has official involvement in the purchasing or contracting process may:

> (1) Have any financial interest or have any personal beneficial interest directly or indirectly in contracts or purchase orders for goods or services used by, or purchased for resale or furnished to a department or agency of the state or the university; or
>
> (2) Accept directly or indirectly from a person, firm, or corporation to which a contract or purchase order has been or may be, awarded, a rebate, gift, money, or anything of value other than items of nominal value. No such employee may further accept any promise, obligation or contract for future reward.

Subd. 2. Textbooks exempted. Textbooks authored by an employee of the state's education systems or of the University of Minnesota may be used as required course material upon receipt of written approval from the head of the department. Instructors in state institutions and at the university may accept free samples of textbooks and related teaching materials.

Subd. 3. Other exemptions. The commissioners of human services and corrections, and the chancellors of the state university and community college systems may by rule prescribe procedure for the acceptance of gifts from any person or organization, provided that such gifts are accepted by the commissioner or chancellor, or a designated representative of the commissioner or chancellor, and that such gifts are used solely for the direct benefit of patients, inmates or students under the jurisdiction of the accepting state officer.

Subd. 4. Penalties. A violation of this section is a misdemeanor.

History: *1973 c 349 s 2; 1973 c 400 s 1; 1975 c 321 s 2; 1982 c 560 s 7; 1984 c 654 art 5 s 58; 1986 c 444*

JUDITH GARRARD, Chair
Faculty Consultative Committee

CARL ADAMS, Chair
Faculty Affairs Committee

DISCUSSION:

Professor Carl Adams introduced the proposed Conflict of Interest Policy. The proposed statement of policy is concerned with academic employees' activities and their related external relationships. The existing policy statement simply does not meet the University's current and future needs. It should be noted that the proposed statement is part of a larger effort to develop a comprehensive, coherent, and complimentary set of policies to guide and protect academic employees. The purposes of the Conflict of Interest Policy are: 1) to establish the essential desireability of many activities and related external relationships engaged in by the University's academic employees, 2) to acknowledge the possibility of abuse in some activity in external relationship combinations, and 3) to establish guidelines and procedures to protect the actual and perceived integrity of each of the academic employees of the University and that of the University as a whole. Some may feel the policy represents an intrusion on rights and privacy, however, major Federal agencies have made it clear that they will soon require the University to have a policy of this type if it is to continue to receive its support. Others, Professor Adams said, may feel the policy is too limited; however, it is important that essential freedoms of academic employees not be infringed on unnecesarily.

Professor Adams assured the Faculty Senate that the proposed policy received major faculty input in its development. It received extensive review by the Faculty Affairs Committee, the Research Committee, and the Faculty Consultative Committee. In addition, there was strong faculty representation on the Academic Integrity Committee (AIC) which developed the policy.

Professor Seashore Louis, member of the AIC, said the committee was concerned about the complexity of the policy but believed the University, as a land-grant institution, has a responsibility to help move the results of its reseach into the public and private sector. Therefore, if the policy is going to protect the faculty's interests, that is to ensure that the University will stand behind its academic employees, the policy needed to be complex enough to include several layers of review and adequate oversight.

The policy, said the AIC chair Dr. Mark Brenner, attempts to present with some clarity the types of interactions of internal activities with associations of external relationships that are generally acceptable and/or require disclosure and review. Dr. Brenner expressed appreciation to the many groups and individuals that worked for so long and so diligently on its development.

A question was raised about the reference to "academic employees" throughout the policy. Why are non-academic employees not included in this policy? Dr. Brenner responded that all individuals in the University who are in a position to influence the outcome of research or other activities and who have a financial interest should be covered by some type of policy. The AIC, which was primarily a faculty committee, believed it needed to address in a comprehensive way the faculty issues. There should be a companion policy for civil service employees. Efforts will begin soon, with participation by civil service employees, to develop such a policy. Similarily, there needs to be a policy addressing graduate assistants. A policy for administrators is already in the advanced stages of development.

An inquiry about the following phrase was also raised: "...University administration has the responsibility to vigorously defend the activity so long as the academic employee complies with the plan of action and the disclosure requirements." Does this mean the University will not only ethically and morally defend the individual, but also provide financial resources for legal defense? And, if so, does the academic employee have the right to select his/her own legal representation? Dr. Brenner responded that the AIC did intend that the University should both morally and legally defend its faculty. President Hasselmo added that the Board of Regents has authorized him "to provide legal counsel for all members of the University community in their proper exercise of their responsibilities within the University community." That means, he said, that a faculty member who complies with appropriate rules and regulations will be defended legally by the University. The individual would be allowed to participate in the selection of the legal counsel. If there is a clear violation of University policy, the University will not pay for legal representation.

It was suggested that footnote 3 be expanded to include those units that do not have operating department heads, chairs, or directors. It was further suggested that Footnote 5 be clarified.

Under Category II-Section B, a clarification was made that reviews could take up to 3 months for completion. Dr. Brenner responded that that would be the extreme situation. He believes the norm would be within 20 days, as outlined in Category II-Section A. Some faculty felt 90 days of University bureaucracy would be enough to send companies or organizations to another institution. Dr. Brenner underscored that the timelines are outer limits. Also, the extra review required under Section B is done only in sensitive situations and will more than likely help the credibility of the activity.

One person inquired whether the criteria for Review Committee members, which are clearly articulated in the document, are meant to apply to other reviewers as well? Dr. Brenner said that they are and agreed that should be clearly identified in the policy.

The following motion was then presented and accepted as a friendly amendment:

> *To add in lines 412, 415, and 431/432 the words "and responsible administrators" after the words "review committees."*

Another senator suggested including grandparents and children under the definition of "immediate family." While it is a rationale idea, Dr. Brenner said, implementation is too cumbersome. It is not practical to expect faculty to keep track of the investment portfolios of people outside their immediate household.

Because the time limit for discussion of this item had expired, a motion to extend the time was *approved.*

The next issue focused on the definition of "business" under Board Memberships, and whether the document should distinguish between proprietary and non-profit organizations. The AIC did not make that distinction because there are so many unusual situations, particularly in how foundations channel funds. One senator argued that leaving the language as written is a bureaucratic infringement on the faculty, requiring them to get permission just about every time they submit grants. Professor Louis said it is her understanding that government agencies are not included in this section. If that is the case, said the senator, then the document should say that.

The following motion was then presented but failed to receive majority approval:

To add in line 145 the words "for profit" before the word "business."

A final motion to add in line 352 the word "non-gorernmental" before the word legal was accepted as a friendly amendment.

Hearing no further discussion, the President turned to the main motion--the proposed policy as amended.

A motion to approved the proposed Conflict of Interest Policy, as amended, was overwhelmingly approved on a voice vote.

APPROVED

III. OLD BUSINESS

NONE

IV. NEW BUSINESS

Professor Garrard distributed and reviewed the Faculty Consultative Committee's quarterly report to the Board of Regents. The text of the report follows:

Report to the Faculty Senate

The FCC presents a report to the Board of Regents on a quarterly basis. My report to you today is the same one presented at the February Regents meeting.

Before giving you this report, I want to give you a bit of background information. This year marks the first time that the administration and the regents have established a new process for preparing the annual budget. A planning process was introduced that consists of budget targets, called Resource Allocation Guidelines. These targets were presented to the Regents in January, but the budget will not be finalized until May.

Central administration's target budget included five major components: (1) a 5% tuition increase, (2) a 6% salary increase, (3) a strategic investment pool of $8.5 million to support U2000, (4) a continuation of the retrenchment and reallocation, and (5) a deficit of $7.5 million. The administration consulted with the Senate Committee on Finance and Planning and with the FCC in the preparation of this proposed budget.

When the proposed budget was presented to the Regents in January, the Regents said that they wanted a new set of guidelines that cut the tuition request from 5% to 3% which amounted to approximately $3 million, left the salary increase at 6%, and left the strategic investment pool at $8.5

million. This meant that the deficit grew from $7.5 million to $10.2 million. These are still planning guidelines, and in that context, let me describe to you the FCC Chair's February report.

FCC Report to the Board of Regents
February 19, 1994

This FCC report to the Board of Regents consists of one item: the future of U2000.

Since the regents' retreat last September, the academic community has engaged in a discussion about the strategic plan. From the perspective of faculty involvement, these activities fall into three distinct stages.

- Stage 1 lasted throughout fall quarter and consisted of discussion and consultation about the need for a strategic plan and its broad characteristics. In December, the Faculty Senate approved the administration's proposal for the framework for U2000.

- For the past two months, we have been in the midst of Stage 2, in which planning is being developed at the collegiate, departmental, and unit levels. Specifically, we are filling in the details of the framework for U2000.

- Stage 3 is in the future and will consist of a translation of these plans into action.

The implementation of U2000 requires resources. Some of the resources were woven into the Resource Allocation Guidelines presented by the Administration at the January meeting of the Board of Regents. We note, with approval, that there is a proposal that additional resources will be requested from the Legislature in the form of extra appropriations.

Let me return to the proposal for the 1994-95 Resource Allocation Guidelines. Prior to the January regents meeting, FCC and the Senate Committee on Finance and Planning had engaged in consultation about these Guidelines. We agreed on the following points:

- The Guidelines represented a balanced budget proposal consisting of five major components: tuition, salary, retrenchment and reallocation,a strategic investment pool, and, by necessity, a deficit.

- The Guidelines also emphasized long term investments in the institution over short term solutions.

- Following consultation and discussion with President Hasselmo and Vice President Infante and Erickson, the FCC and the Senate Committee on Finance and Planning were agreed that the proposed budget guidelines represented a shared sacrifice approach to carving out some of the needed resources for U2000.

In the administration's proposed guidelines, all members of the academic community would be called upon to make sacrifices in order to generate a Strategic Investment Pool (SIP). Let me outline these contributions:

- We note with appreciation the commitment of the administration and the enthusiastic support by members of the Board of Regents to the proposed salary increase. However, an increase of 6%, proposed for continuing, non represented faculty, or even the 7.2% increase for continuing civil service and bargaining unit employees represents a sacrifice by <u>all</u> members of the University community, faculty, staff, and student employees in light of no salary increases in 2 of the past 3 years.

- Faculty, staff, and student employees will also make a contribution through programmatic cuts due to retrenchments made this year and last year in support of the on-going retrenchment and reallocation process and in the proposed deficit of $7.5 million. The administration has estimated that $1 million is equal to approximately 35 positions. On that basis, a $7.5 deficit means the loss of about 250 employee jobs.

- The proposed guideline of 5% for tuition increase represents a reasonable contribution to the future of their university by its students. The FCC and the Finance and Planning Committee agreed with the administration's rationale that a 3% tuition increase plus an additional 2% to support the SIP was justified.

Thus the proposed guidelines represented a balanced approach to providing the resources needed to begin to implement U2000. Faculty and staff are called upon to make contributions through reductions in terms of compensation increases and programmatic cuts. The students' contribution, in terms of a modest tuition increase, represents a down payment on their improvements in student education envisioned by U2000.

The Regents' action at the January meeting would require another $3 million in retrenchment, approximately 2% of budget. in the minds of many faculty, a 2% retrenchment this year on top of a 2.4% retrenchment last year, brings into question the long term commitment of the University to the quality envisioned by the strategic planning process that is underway. A proposed reduction in tuition would save only $69 per year for an average full time student, but it would cause the loss of the equivalent of an additional 95 employee positions.

We are deeply concerned that continuing programmatic cuts will undermine the base from which U2000 is to be built. If the strategic planning process is to be realized and implementations for U2000 is to begin, then a commitment must be made to the underlying quality of the academic programs, with long term investment in competitive salaries, a strategic investment pool, and realistic tuition levels.

For decades the physical infrastructure has been undermined through underfunding of the facilities budgets, and we are now paying the cost of the neglect in terms of deferred maintenance. We should not make the same mistake in underfunding the intellectual infrastructure of the University, especially when planning for the future is just beginning.

We urge you, the Regents, to make this commitment to the future of U2000 by making the hard decision to hold retrenchments to the level contemplated in the Resource Allocation Guidelines as originally proposed by the administration in January.

V. ADJOURNMENT

The meeting was adjourned at 4:10 p.m.

Martha Kvanbeck
Abstractor